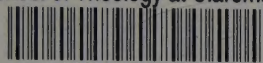


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CASE,

AS TO THE

LEGAL FORCE OF THE JUDGMENT OF THE PRIVY COUNCIL

In Re Fendall *v.* Wilson ;

WITH THE

OPINION

OF THE ATTORNEY-GENERAL & SIR HUGH CAIRNS,

AND A PREFACE

TO THOSE WHO LOVE GOD AND HIS TRUTH,

BY THE REV. E. B. PUSEY, D.D.

SECOND EDITION.

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PREFACE.

THE unhappy judgment in the case of Mr. Wilson, delivered by, and currently attributed to, the Lord Chancellor, was variously interpreted, with all the different shades or extremes of meaning, which were to be expected in a case where the hopes of those who deny the truth and the fears of those who hold it were strung to the utmost.

The organs of Mr. Maurice's party exulted that the way was open to proclaim Hell to be only a Purgatory for the wicked. People of bad consciences congratulated themselves, that, if the Chancellor's judgment was right, they need not fear Hell for their sins. The Lord Chancellor did, for those who trusted him, and not our Lord or His Church, abolish the belief in Hell. Alas! but for the mercy of God, it is only that the credulous ungodly may fall the more surely into it. So also as to the Inspiration of Holy Scripture. There was a jubilee of triumph among half-believers, as if all barriers were thrown down, disbelief might have its free course, and the inspiration of each several book of Holy Scripture, nay, of every part of every book, might in turn be denied by Clergymen of the Church of England, and as if those, who were bound by the law of God to maintain the faith, were set free by the law of man to deny it.

A class of believers joined in the triumph. And while I know that a very earnest body of Roman Catholics rejoice in all the workings of God the Holy Ghost in the Church

of England, (whatever they think of her,) and are saddened in what weakens *her* who is, in God's Hands, the great bulwark against infidelity in this land, others seemed to be in an ecstasy of triumph at this victory of Satan.

The *principles* of the Judgment admit of any error, as to the Inspiration of Holy Scripture, or the future punishment of the wicked. Had all the statements as to Holy Scripture, which Mr. Wilson made in his Essay, been before the Court, the Lord Chancellor must either have modified those principles, or he must have considerably extended their application. For myself, I thought that the consequences, which lay legitimately in the words of the Judgment, were in fact parts of the Judgment. Others thought otherwise. I therefore prepared a Case, to be submitted to the two most eminent lawyers not already upon the Bench, (who had not been engaged in the recent trials, and whose opinion therefore could not be thought to be biassed,) in order to obtain an authoritative opinion, what is the real legal value of that judgment. I went (as will be seen from the questions) into much detail, with no bias either way; but wishing to ascertain, as exactly and as authoritatively as I could, what is the legal effect of that judgment in regard to Clergymen of the Church of England. The result is contrary to my anticipations.

The opinion brings out the fact, of which many non-legal persons were probably ignorant, as well as myself, that the law, while entrusting to an individual, eminent in his line, an almost unlimited power of defining the law, not for his own time only, but almost in perpetuity, (except in the case of fresh legislation,) does on the other hand limit his decisions to their strictest and narrowest literal meaning. This literal meaning, except in case of really bad law, becomes, I am informed, part of the permanent law of the land. But in order to lessen the inconveniences of this

absolute despotism over existing law, it is restricted as above within as narrow limits as the case admits. The legal interpretation, ruled in each case, is the minimum which lies in the words¹. It matters not, whether, by any apparent legitimacy of deduction, any other consequences might be derived from the letter of the judgment. Any case, if not absolutely identical, would (I am informed) have to be considered entirely *de novo*.

The *legal* effect then of the judgment, in regard to the inspiration of Holy Scripture, is very narrow indeed. It must be remembered, that no civil judgment enters into the question what is the mind or teaching of the Church. It may be ever so morally certain, that such or such is the teaching of the Church: a person may be constrained by conscience to believe any given truth, as the plain or established meaning of the words; or he may be forbidden, under penalty of mockery towards God's dread Majesty, to address to God Himself, in unreal senses, words

¹ Cardinal Wiseman and Dr. Manning wrote gravely, yet both of them (it now appears) were mistaken (as I was myself also), as to the legal effects of that judgment. Cardinal Wiseman says, "This most solemn and purely religious controversy has passed into the hands of laymen, from the hall of priests to the tribunals of Cæsar. The judgment has gone forth as valid and inconcussible, in spite of assessors impugning it, who belong to the highest order of religious teachers recognized by the state. What is the consequence? Why, practically that henceforth *the inspiration of any proposed portion of Holy Scripture may be safely denied*, within the pale of the National Establishment; and thus falls what has been considered 'the pillar and groundwork' of all its doctrine. And so may any one *secure'y deny that eternal fire of the Judgment* to come, which is more effectual for converting sinners than the reading of God's Word (Luke xvi. 30), which terrified Felix in his powerful wickedness (Acts xxiv. 25), and Simon Magus in his cunning impiety. And in this way the great moral ground of Divine fear is cut from under the feet of the unrepenting, who may now go on, in their way, rejoicing." (Pastoral Letter, pp. 14, 15.) Dr. Manning says, "After full hearing, the sentence given was a reversal of the judgment of the Court below, or, in other words, a declaration that *to deny the inspiration of any portion of the Old and New Testament*, so long as no entire book is thereby erased from the Canon, *and to deny the eternity of punishment to the wicked*, is not at variance with the Articles or Formularies of the Church of England." (The Crown in Council, p. 19.)

expressive of solemn truth. Of all this, law takes no account. It considers this only, whether the Church has *in terminis* so laid down the doctrine impugned, that it should be penal to speculate or teach otherwise, and, on the other hand, whether the terms, in which any Clergyman has expressed his misbelief, be so clearly contradictory to what the Church has thus distinctly laid down, that the evidence should be sufficient to convict him *in a penal cause*.

The acquittal of Dr. Williams involved only a non-natural construction of his language. The Lord Chancellor twisted his words, so that they should mean no more than the self-evident truth, that God the Holy Ghost, who dwells in the Church and in the hearts of the faithful, inspired the Holy Scripture. Dr. Williams knows that this does not express all, probably it expressed none, of his meaning. How he can think himself honest in accepting such an acquittal, is beyond my understanding. We must have different ideas of moral honesty, as well as different Creeds.

In the case of Mr. Wilson, the Court apparently minimized the words which were before it. It first, in the face of the title, given to the Holy Scripture in the Articles, "God's Word written," laid down that "the proposition or assertion that *every part* of the Scriptures was written under the inspiration of the Holy Spirit is not to be found either in the Articles or any of the Formularies of the Church," and so made room for Mr. Wilson's general statement, "The Word of God is contained in Scripture, whence it does not follow that it is coextensive with it."

"*Dolus latet in generalibus.*" It *might* satisfy the words of the Lord Chancellor's judgment if it were proved that any extension of any genealogy had been added to the Bible by one uninspired. In principle I imagined certainly that the Lord Chancellor entirely agreed with Mr. Wilson ;

viz. that the Bible may well be called Holy, "the Word of God," "God's Word written," or "Holy Writ," on account of some "thing" or "things necessary to salvation" contained somewhere in it; but that the Bible is as little the Word of God as an iron chest which contains title-deeds is those title-deeds themselves.

On the other Article, the Lord Chancellor went out of his way to affirm that the Church of England does not teach what it does plainly teach. He declared that there was no proof that, in the mind of the Church of England, the English word "everlasting" meant "lasting for ever."

But the law does not (I understand) allow his judgment to go one iota beyond its very letter. The Lord Chancellor has (as far as in him lies) made it legal to English Clergymen to express a hope, that all shall, in the end, be restored; in other words, to express a hope that there is no Hell, and that our Divine Lord, in all His revelations on the subject, used words in a non-natural sense. He has not, I understand, made it lawful for any Clergyman to teach his people dogmatically, that there is no Hell.

Under another Chancellor, or another Court, any Clergyman would do it, at his peril before man, as well as before God.

This is no vain distinction. Of course, what the Lord Chancellor pronounced to be legal denies the faith, just as much as if he had declared it legal, explicitly to deny Hell. For to express a hope to the contrary, implies that God has not revealed that, the contrary to which a man hopes. But the expression of a hope is only the first timid step of unbelief. The human mind is continually tending toward consistency in truth or error. And there is of course no consistency in believing any abolition of Hell, which should not include "the Devil and his angels" too, unless indeed Satan should have persuaded any one of his own non-

existence. All the misbelievers will, in England, as well as in the United States, where Universalism is the leading demoralizing heresy, be emboldened to more explicit denials of faith. And in these the past acquittal of Mr. Wilson will not, in itself, protect them.

But what hope is there of any more righteous judgment in the future? Certainly none, if the present Court of Appeal be retained. It is the bias of English justice, to construe every thing in the most favourable way for one accused of a criminal charge. This is, of course, right, when it is a question of evidence as to *fact*. To be suspected, is, in itself, a heavy punishment. In criminal accusations, it is not a question, mostly, of intention or of meaning, but of *facts*. In cases of heresy, the *fact* of the writing or speaking is certain. The only scope which the desire to acquit one accused can have, is either as to the meaning of the words used by the accused, or as to that of the formularies, which he is alleged to have contravened. In regard to uncertain or ambiguous language, used by the accused party, the evil is confined to that single case. If a person insinuates heresy, which he dares not to avow, his acquittal condemns him. The English nation loves honesty, and will judge of such an one, as one who, doing evil, "hateth the light, neither cometh to the light, lest his deeds should be reproved." He will, sooner or later, lose all influence.

In the case of the wrong interpretation of the formularies, the evil is great and lasting. The rule of justice may be bent, under some bias or in pure ignorance, and henceforth justice has to measure by a crooked rule. The terms of Theology are in themselves as well known and definite as those of common law. The theological meaning of "everlasting," "Hell," "canonical," "Scripture," "inspiration," is as definitely known as that of "manslaughter," "felony," "larceny," "treason," "libel." But as most of

us Clergy would be not only likely, but almost certain, to make mistakes as to the law of libel, in any intricate case ; so must those, whose whole lives have been devoted to the laborious study of human law, be likely to make mistakes as to Theology. There is no security, moreover, that any one of the non-Theological judges should be even a Christian. It is not at all improbable, in the present unhappy state of the educated classes, that one exercising the highest judicial functions should himself be an unbeliever, or a misbeliever, or an evil liver. What should such an one have to do with sitting in judgment on matters of faith ? If such an one intellectually know any thing of the doctrines of faith, it is by accident only. How should one judge impartially as to the doctrine of Hell, who has reason to wish that there should be none for those who live and die in the breach of some great commandment, or who himself disbelieves the Gospel ?

Mr. Wilson explained his words in a sense which they hardly admit, but as not containing the heresy, which he has since defended. Dr. Lushington condemned them, in their natural sense, as containing the heresy of Universalism, at least, as relates to the human race, (for English Universalists avoid the mention of Satan,) "that finally all [mankind] both great and small will escape everlasting damnation." In his defence before the Privy Council, Mr. Wilson expressly limited those his words to one class of souls, "in whom there is but a germ of spiritual life, infants as to spiritual growth, 'babblers, busybodies, mere eaters and drinkers,' the undeveloped, the stunted, and the perverted. That larger question, which the judgment opened, and which (Mr. Wilson says) I have therefore had to argue, was not opened in the Essay ²." He parallels his words with the Roman doctrine of Purgatory, and says that he was speaking of the same class

² Wilson, Speech, p. 146.

of souls ; accordingly, of souls who leave this world in a state of grace, yet not fitted as yet to enter into Heaven. He distinguished his "hope" from the Roman doctrine of Purgatory, in that *he* hoped that this restoration would take place after the Judgment, not before ; and "not necessarily by a discipline of pain *only*, but, it may be, by various instrumentalities, which it shall please God to employ for the advancement or recovery of His moral creatures³." "The word 'all,'" he says, "is fairly and properly to be limited to the classes, spoken of in the whole paragraph, and especially in the immediately preceding sentence, that is, to the undeveloped, the stunted, and the perverted⁴." Whom Mr. Wilson meant under this last term, "the perverted," he did not explain. It is a large term, which might comprehend the whole range of human wickedness. But, since Mr. Wilson declares that the whole classes of whom he was speaking, are identical with those whom M. Möhler spoke of as prepared for heaven by Purgatory, his "hope or opinion," (for he speaks of it as such⁵,) was only a modification of the doctrine of Purgatory ; a modification consisting chiefly in this, that he placed it after the General Judgment, instead of after the particular judgment on the death of the individual. But whether or no *this* doctrine of Purgatory would be held to be consistent with Article XXII., was not before the Court. Mr. Wilson did not deny Hell ; nay, he supposed that all those would fall into it, who, in the belief of either the Roman or the English Church, will be sentenced to it ; those who die out of the grace of God. Nay, he himself, in his defence, took the word "everlasting" in its natural sense, and asked whether this class of whom he spoke, was "to be doomed to dwell for ever in *everlasting* fire prepared for the devil and his angels⁶?" Accordingly, a Judge who

³ Wilson, Speech, p. 147.

⁵ Ib. p. 151.

⁴ Ib. p. 151.

⁶ Ib. p. 146.

accepted this explanation, which, on his trial⁷, he gave of the words in his Essay, had no choice but to acquit him of denying the everlasting punishment of the wicked, which he averred that he had not denied.

This then the Primates at least⁸ did. They acquitted him of this charge as "not proven." There was no temptation then to the Lord Chancellor to go into a question not necessarily before the Court, except the pure love of the heresy and the desire of throwing open to unbelief an article of faith, against which Rationalism rebels.

And at what price? At the price of shaking the faith of godly minds in the Church of England, and of encouraging the ungodly in sin; at the price of breaking off Churches of the Colonies from the mother Church, and familiarizing devoted minds among us at home to thoughts of organic severance from the Church, whose discipline is fettered by such a tribunal, that to attempt to enforce any article of faith is to occasion it to be denied by the supreme Jurisdiction; of checking deeds of liberality to the Church, until she be freed from this bondage.

The mode in which this misbelief was maintained by the Lord Chancellor aggravates the impiety of the decision. Most of us remember the burst of indignation, the shock to the religious mind of England, when the Rev. W. G. Ward avowed that he held the sense, in which he subscribed the Articles, to be "non-natural." It was not the claim to hold all Roman doctrine, which swelled or occasioned that decided majority in the Oxford Theatre. It was the implied want of honesty in the claim to hold an endowment

⁷ Since his acquittal, Mr. Wilson has, in the "Daily News," identified himself with those who deny eternal punishments, having obtained the concurrence of the Archbishops in his acquittal on the plea that he had not denied them.

⁸ Bishop Tait has since declared his belief in eternal punishments, but what part he took, as to this count of the judgment, has not, I believe, appeared.

by virtue of subscription, and yet to take the Articles subscribed in a non-natural sense. "Non-natural" has, since that time, been a by-word for dishonest interpretation of words. Mr. Ward used no defence, except that, in his opinion, all parties in the Church of England were, of necessity, in one way or the other, equally dishonest. He left no plea to his defenders, except that one-sided justice was injustice. The Lord Chancellor has now reversed the decision in the Oxford Theatre, as well as that of the Court of Arches, and has established the principle (unless the influence of his decision is shaken, and this "judge-made law" die with himself), that in English courts of law words may be taken in "non-natural" senses. He has, as far as in him lies, poisoned the springs of English justice for ages in all matters of faith. Not only has he done this in his own person, but he has virtually ascribed the same trickery with words to our Redeemer Himself; for he avers that the word "everlasting," as used in the Athanasian Creed, is to be taken with the same ambiguity of meaning, as "learned men" have taken it in the Gospels. In other words, because heretics have affixed a non-natural meaning to our Lord's words, therefore it is to be ruled, that our Blessed Lord, when revealing the final issue of our state of trial here, used the selfsame word in the selfsame sentence, once in its natural, once in a "non-natural" meaning. "These shall go away into everlasting punishment; but the righteous into life eternal ⁹."

On such a system of interpretation, no one could be

⁹ Mr. Wilson justified this from the necessity of the case. Non-natural senses of Holy Scripture are to be allowed, if the grammatical sense contradicts what man thinks to befit God. "If there be a repugnancy to the divine attributes in the supposition of the everlasting fiery torments of the wicked by Him whose mercy is over all His works; but no repugnancy in securing everlasting happiness and progress to the good, for the gifts and calling of God are without repentance, there would rightly be admissible different senses to the adjective in the two cases." Speech, p. 98.

found guilty of any charge, except Almighty God of the one sweeping charge, that He either did not reveal Himself to His creatures at all, or, like the Pythian Oracle, used ambiguous terms, which may be taken any how,—until the Day of Judgment.

Yet further, the Lord Chancellor laid down the principle, that a word, whose meaning was not laid down in the formularies themselves, might be taken in any sense of which it was capable. But since Theological terms, not only in our formularies, including the Creeds, but in Holy Scripture also, are used in their known Theological sense, and, being known, are not defined (for men define what is really ambiguous, not what is known), then it follows, that every word may be taken in a non-natural sense. And this has a direct practical bearing on the misbelief of the present day, because it is an avowed plan, “to win” (as it is said) “new senses for received Theological terms¹⁰,” i. e. to take them in “non-natural” meanings; so that, in this new Babel-din of Theology, every one is to be able to veil his meaning at least from the understanding of human justice.

These are the principles to which the present Lord Chancellor stands committed; this is the injustice, which by those principles he is held bound to measure out to the English Church: this the profanation of justice, which he stands pledged to counsel to the Supreme temporal authority of this realm.

How long shall the patience of the English Church be abused? Tudor protection is withdrawn from it, piece by piece; the iron grasp of the Tudors is held more tightly than ever upon its free action. Its voice only is permitted,

¹⁰ Prof. Jowett in his *Essay on the Atonement, Epistle to the Romans, &c.*, T. ii. p. 509.

because politicians hold it powerless. Powerless it may be with men; will it be with God? At that Throne, if we appeal earnestly, the appeal will be heard. "And the Lord said, Hear what the unjust judge saith. And shall not God avenge His own elect, which cry day and night unto Him, though He bear long with them? I tell you that He will avenge them speedily."

The time may not be far off, when the English Crown shall stand in need, as it has aforetime, of the aid of the English Church, and the State may then wish that it had not weakened her. It will be well for politicians to remember, that the Court of France corrupted those in high office in the French Church; she lost her power; and the throne was overthrown by those who had once been her children. The Monarchy was restored, the hand of the State was heavy upon the Church, the Church was passive, and the Bourbon line was ended. The weight of the hand was not lightened; the Church looked on passively, but prayed doubtless for her deliverance; the House of Orleans followed that of Bourbon, and the Church was freed. The kingdom of God alone has a God-given stability.

It will be unwise for politicians to try the endurance of the Church too long. The cracks along the ice, wherewith the waters have been enchained, give tokens that it will not always hold. It is a new thing, since the days of the last revolution, to hear persons, who had been the most devoted of her sons, speak of a "Free Church." It was a far less injury which rent the Establishment in Scotland asunder. Long-sighted and experienced politicians thought of nothing less. Too late they found, that what they insisted upon cost them their influence over half of Scotland. The Church of England has necessarily more tenacity than the Scotch Establishment. For, having a Divine original, it is an organic body, and knows more the value of inter-communion, not indeed as a condition

absolutely necessary, but as the natural fruit of Divine unity. It is then the more remarkable, when members of the Church of England begin to speak (as they have) of a "Free Church." Our extension in the Colonies, which has so enlarged the Church and its Episcopate, makes such a rent possible, even though not one Bishop in England should join it. And "if ever there should be a rent in the Church of England," said one, "the rent in Scotland would be nothing to it."

The idol of the present political physicians of the Church is size, under the guardian supremacy of the State. Many seem ready to sacrifice any principle (if indeed it is to *them* any sacrifice) to a supposed influx of numbers; as if man could do the work of the Spirit of God, and a motley crowd of worshippers, of discordant faith, or of no faith, could form a Church, the Temple of the Holy Ghost. True, as they say, that a National Church ought to take in the Nation. True, also, that the Christian Church ought to take in the world; but, by winning it to the truth, not by becoming the domicile of its errors, an aggregate of all its unsanctified "opinions," a Pantheon of all its idols. Accessions of numbers, which are won to the truth, are the glory of the Church, the fruit of the Blood of Christ, the travail of His Soul which He beholds with joy, the triumphs of His perpetual Intercession. Accessions of numbers, unconverted, unwon to "the truth as it is in Jesus," form but a house builded on the sand, ensuring its fall the more fatally by their accession; a Babel-multitude, collected only in order to be dispersed the more hopelessly.

Fixedness of Creed is strength, because it is fixedness in the truth of God. The sacrifices, which politicians would make, are but weakness. For it is every where Divine truth which they would part with. They would exchange the believing for the unbelieving or the misbelieving. They have tried the experiment in times past. A dreary cen-

ture of coldness, in which Christian faith was dimmed, taught, as ever, through the prayers of the people, but, for the most part, feebly, or but half enforced from the pulpits, was the fruit of the ejection of the Non-jurors. The Church, thus chilled, knew not how to use the energies of Wesley. The Bishops, in the reviving Church, knew not how to employ, twenty years past, one of their most devoted sons. They did not even understand at what Dr. Newman was aiming, and criticized now one detail, now another, without ever having any grasp of the whole. And when, warned by the fruits of this cold, unpaternal criticism, the late Bishop Blomfield brought a Bill into the House of Lords to alter a Court of Appeal which had come into being through an oversight, and another Bishop appealed to the feeling of the House in the affecting words, that "many, who were gems in the Church of England, would fall from it," a statesman¹ answered him with the cold taunt, that "those gems must be loosely set, if they could be so lightly shaken off." The sarcasm met with a response in the House of Lords, and the gems fell from the Church. The sorrow of religious division has fallen, as the fruit of that taunt, upon many a family of the aristocracy, the forerunner and instrument of many other sorrows. And I will add, since those who are insensible to every thing else, will sometimes feel the withdrawal of wealth, that several hundred thousand pounds, which might have provided Churches for the members of the Church of England, have been forfeited by the course then adopted.

The unjust decision of the Supreme Court does not, in itself, alter the doctrine of the Church of England. The events of late years have brought out even more vividly the value of our prayers in the language of the people. The adage of above 1400 years has been verified anew, and the "rule of devotion has been the guardian of faith." When

¹ The Earl of Carlisle.

I joined Dr. Manning and other friends in a declaration, with which such as joined the Church of Rome have since often taunted us², I myself, not having a parochial cure and worshipping mostly in a Cathedral where Baptism did not enter into the Service, felt the value of the Baptismal Office, as a witness to truth rather than as a teacher of it. Fourteen years, which have since elapsed, have shown me more distinctly the value of the Prayer Book, speaking, as it does, to the hearts of the people in their own tongue, in teaching and impressing on the people the doctrines which it embodies. In the Gorham Judgment, the judges did not doubt that the natural meaning of the service was to teach Baptismal Regeneration. Indeed, there are no stronger words used any where. So then, although the legal obligation is removed, the moral and religious obligation to us, as the creatures and ministers of God, to use words addressed to Him, without any evasion of their natural meaning, remains; the teaching of the people who wish to be taught, also remains, at the time when their minds are most impressible, when their children are made "members of Christ and children of God." And so too, however the Lord Chancellor may profane justice by assigning to our Lord's words non-

² Dr. Manning has recently revived the charge, with repeated allusions to myself. I could not reach the meeting in time to be present at the first framing of the declaration. I found one, framed, I believe, by Dr. Manning, in which I could not unite. In the modification of it, which I accepted, the original meaning was considerably altered (in addition to other changes) by the statement that the Church of England would "eventually" (I wished the word to be "ultimately") "be bound," and by the repeated introduction of the words, "conscious," "deliberate," and "wilful," to qualify those, "abandonment of the essential meaning of an Article of the Creed." The union of two parties, with opposite convictions,—the one, that the Gorham judgment, *in itself*, committed the Church of England to the abandonment of an article of faith; the other, that it did not, whatever fears we had as to its *ultimate* effects on the faith of the Church of England,—naturally ended in opposite results.

natural meanings, men's consciences, if not self-hardened, will still bear witness to them or against them, when, in the face of death and of the irrevocable end of each, they hear the prayer, offered in their own names, "Deliver us not into the bitter pains of eternal death." Nor would I, for the whole world, say such words to God, with the mockery of a non-natural sense upon them. We have still men's consciences on our side. However a few hardened controversialists may, like the Talleyrands or Sieyes' of the ante-revolution times, speak to God in such non-natural ways, and pray Him to deliver them from what they think it contrary to His Being to inflict, and which they think to be only a Theological scarecrow, lying terrors held out by the God of Truth to frighten people from sin, as foolish nurses or parents lie to children in order to keep them from mischief,—our better nature revolts at the mockery.

But this choice alone stands before us. Either, as heretofore, men's consciences must restrain them from taking obligations upon them, which it is a burden to discharge, from pledging themselves to read, as God's Word, what they believe to be the word of man, and from uttering to God, as the truth of God, what they take upon themselves to pronounce to be alien to His Nature;—either the consciences of the Clergy must conform themselves to our Prayer Book, or we must be prepared for the claim that prayers should be disused, whose natural sense men shall be allowed to disbelieve, and therewith that the faith, which those prayers express, should be obliterated.

The present stage is but a stepping-stone. Will the Church of England require that the Court which has shown itself so partial, so dishonest, which, had it been a matter of human property, would not have dared so openly to profane justice, should be reformed? or will it acquiesce in such

unprincipled principles, as the Lord Chancellor enunciated in its name? If it does, every attempt to require that the Clergy should not deny what they profess to God and man that they believe, must throw open a fresh article of the Creed. It must have been in irony, that one, advocating recently the abolition of subscription, proposed that errors as to doctrine should be left to Courts of Law³. It would be curious to see, what denials of truth he would think to be errors, or likely to be condemned. Mr. Wilson, who does not think it essential to any National Church, that it should be Christian⁴, speaks of the "meshes of the law"⁵ which requires subscription, as "too open for modern refinements," and teaches how to evade the statements as to the faith without directly impugning or contradicting them⁶. The Lord Chancellor follows his lead, and teaches how every statement of faith may be evaded, if only the old words be kept, and new meanings affixed to them.

Is then the Church of England to be really a mere arena for jugglers' tricks, sporting with the meanings of words, as if there were no truth, no faith, no Word of God, no God, to whom men are responsible? If it is not to be such, the course must be arrested at once. The principles enunciated by the Lord Chancellor would make Articles, Creeds, Prayers, Scripture, ■ mere superficial mirror, in which any one, instead of seeing the truth of God, is to see only the reflexion of his own mind. As he looks in to them, so are they to look out to him.

The defensive is always a losing side. Other bodies have pleaded their grievances, and have gained what they asked

³ Dean Liddell in Macmillan's Magazine.

⁴ Essays and Reviews, p. 173.

⁵ Ib. p. 185.

⁶ Dr. Lushington expressly stated this.

for. The policy of Churchmen has been naturally, but too exclusively, Conservative. They have raised defences, here and there successfully, against an invading force, swelling against their outworks on all sides. Parliament, first or last, gives what is asked. Dissenters have been asking, step by step, to have the civil privileges of the Church. Let the Church ask, in her turn, for the religious liberty which Dissenters enjoy. In this present balance of parties, Churchmen could make their voices felt. This world's politics concern us little. What concerns us, is, that if the State withdraws the protection which it gave us, it should give us power to protect ourselves. Shepherd's dogs are safer guardians than wolf's cubs. If the State insist upon supervising all judicial proceedings, at least let it not make its procedures an occasion for legalizing heresy in the name of the Church. Why should politicians fear entrusting the Bishops with declaring what is the faith of the Church, more than they fear trusting eminent lawyers with declaring what is the law of the Realm? The appointment of the Bishops rests as much with the people, as that of the legal authorities. Both are nominated by the Prime Minister, who is himself placed in office or displaced at the will of the House of Commons, which the people elect. Where then is any popular ground of fear of entrusting the Bishops with that Office, with which they are entrusted by God? Or, if the State will not withdraw the temporals of the Church from Clergy who deny the faith, let the Clergy ask for tribunals of their own, to decide as to spirituals. Let the State give the income to whom it will, but let the Church have the power to suspend from teaching, those who teach the people lies as to God, and preach another Jesus, who made no atonement for our sins, and another God, who will not punish; "slaying the souls that

should not die, by their lying to My people that hear their lies ⁷."

It is a time, when every minister and member of the Church, who has any love for his Redeemer, or for the Word of God, or for the Truth as it is in Jesus, should unite as one man ⁸, to cast off this Anti-Christian tyranny of the State. I have stated in the Case, what seemed to me inevitable inferences from the recent Judgment. They are not (it appears) yet "Privy Council law;" but unless the Judicial Committee be changed, I do not see how, consistently with the principle of the late judgments, it could shrink from acquitting any Clergyman, who should affirm as to Holy Scripture any of the gross falsehoods thus selected from recent writings, or who should teach his people to disbelieve any truth of God, or His Word. Even apart from Divine truth, a Court, which could so profane justice, as was done in the recent Judgment,

⁷ Ezek. xiii. 19.

⁸ Dr. Manning speaks of my "letter of alliance addressed to the Record" as a change in me, and of myself as having "spent my life in protesting against what is known as the Low Church." Such was not the line of Archdeacon Manning (who united in religious societies, from which I felt compelled, on principle, to abstain), nor has it been mine. It has been one object of my life (as I think it was of his) to set forth truth in such way as should be most winning to those among us, who, I believed, were hindered by some prejudice from holding it distinctly. I stated in 1848, that I was "persuaded that earnest men, who often use unguarded language, both as to the Church and the Sacraments, at which others, in their turn, take offence, only mean this, that nothing is to occupy the place of Christ in the soul." When the Preface to my Parochial Sermons, in which I so spoke, was blamed by Mr. Dodsworth, I explained and defended it in the Second Edition. It has been one longing of my life, that "those who love the Lord Jesus Christ in sincerity" should be drawn towards one another. For I believe that it is through love that men understand one another; that through love a veil falls from the eyes, and men see truths, through the teaching of the Spirit of God, against which prejudice closed them. The Gorham judgment and subsequent controversies had separated persons. My letter to the "Record" expressed the pent-up longings of many years, that the presence of the common enemy, infidelity, should force those together who together loved the Lord Jesus.

should be reformed. If it be left unreformed, it will be open to any renegade Clergyman to deny any truth of God, which Satan might teach him to deny, so that Satan suggested to him a little of his own dexterity in wording his denial. The Judicial Committee would, if consistent, counsel his acquittal.

Pledges have been the fashion ; and a general election is at no great distance. Let Churchmen, on the principle of the Anti-Corn-Law League, league themselves for "the protection of the faith." "The Church is in danger," has been, and will again be, a strong rallying-cry. And now the peril is not of some miserable temporal endowment, but of men's souls. Let men league together to support no candidate for Parliament, who will not pledge himself to do what in him lies to reform a Court⁹, which has in principle declared God's Word not to be His Word, and Eternity not to be Eternity. And let them support persons, of whatever politics, who will so pledge themselves. Let men bind themselves not to give over, but to continue besieging the House of Parliament by their petitions, and beseeching Almighty God in their prayers, until they shall obtain some security against this State-protection of unbelief. Better be members of the poorest Church in Christendom, which can repel "the wolves which spare not the flock," than of the richest, in which the State forces us to accept as her ministers, those whom our Lord calls "ravening wolves." Withal see we to it, that we pray God earnestly day by day to stem this flood of ungodliness, and to convert those who are now, alas ! enemies of the faith and of God.

⁹ It has been suggested, that no church should be offered for consecration, no sums given for the building of churches, which by consecration should become the property of the present Church of England, no sums given for *endowment* in perpetuity, until the present heresy-legalizing Court shall be modified. This will show our rulers that we are in earnest.

C A S E.

IN that part of the recent Judgment of the Judicial Committee of the Privy Council which relates to the case Wilson Appellant *v.* Fendall Respondent, the Court laid down the following propositions in regard to the charge against Mr. Wilson which relates to Holy Scripture. “ This charge (the 8th article of charge) involves the proposition, That it is a contradiction of the doctrine laid down in the 6th and 20th Articles of Religion, in the Nicene Creed, and in the Ordination Service of Priests, to affirm that any part of the Canonical Books of the Old or New Testament, *upon any subject whatever, however unconnected with religious faith or moral duty*, was not written under the inspiration of the Holy Spirit. The proposition or assertion, *that every part of the Scriptures* was written under the inspiration of the Holy Spirit, is not to be found either in the Articles or any of the Formularies of the Church. But in the 6th Article it is said that Holy Scripture containeth all things necessary to salvation, and the Books of the Old and New Testament are therein

called Canonical. In the 20th Article, the Scriptures are referred to as ‘God’s Word written;’ in the Ordination Service, when the Bible is given by the Bishop to the Priest, it is put into his hands with these words, ‘Take thou authority to preach the Word of God;’ and in the Nicene Creed are the words, ‘The Holy Ghost, who spake by the Prophets.’ We are confined by the Articles of Charge to the consideration of these materials, and the question whether in them the Church has affirmed that every part of every Book of Scripture was written under the inspiration of the Holy Spirit, and is the Word of God. Certainly this doctrine is not involved in the 6th Article, That Holy Scripture containeth all things necessary to salvation. But inasmuch as it doth so from the revelation of the Holy Spirit, the Bible may well be called Holy, and said to be ‘the Word of God,’ ‘God’s Word written,’ or ‘Holy Writ,’ terms which cannot be affirmed to be clearly predicated of every statement or representation contained in every part of the Old and New Testament. The framers of the Articles have not used the word ‘inspiration,’ as applied to the Holy Scriptures, nor have they laid down any thing as to the extent, nature, or limits of that operation of the Holy Spirit. The caution of the framers of our Articles forbids our treating their language as implying more than is expressed, nor are we warranted in ascribing to them conclusions expressed in new forms of words involving minute

and subtle matters of controversy. After an anxious consideration of the subject, we find ourselves unable to say that the passages extracted from Mr. Wilson's Essay, and which form the subject of this Article of Charge, are contradicted by, or plainly inconsistent with, the Articles or Formularies to which the Charge refers, and which alone we are at liberty to consider."

In the passage objected to from Mr. Wilson's Essay, Mr. Wilson said, "the phrase, the Word of God, begs many a question, when applied collectively to the Books of the Old and New Testament, which is never so applied to them by any of the Scriptural authors, and which, according to Protestant principles, never could be applied to them by any sufficient authority from without."

"In that which may be called the pivot Article of the Church (the 6th), this expression does not occur, but only 'Holy Scriptures,' 'Canonical Books,' 'Old and New Testaments.' It contains no declaration of the Bible being throughout supernaturally suggested, nor *any intimation as to which parts of it were owing to a special Divine illumination*—not the least hint of the relation between the Divine and human elements in the composition of the Biblical Books. Even if the Fathers have usually considered 'Canonical' as synonymous with 'miraculously inspired,' there is nothing to show that their sense of the word must necessarily be applied in our own 6th Article.

“The Declaration (in the 6th Article) declares that nothing is to be required to be believed on peril of salvation, unless it be Scriptural, but it does not lay down that every thing which is contained in Scripture must be believed on the same peril. Or it may be expressed thus, ‘The Word of God is contained in Scripture, whence it does not follow that it is coextensive with it.’”

1. Your opinion is asked whether the reserving clause, “upon any subject whatever, however unconnected with religious faith or moral duty,” implies any judgment of the Court that in matters which *are* connected with religious faith or moral duty “a Clergyman may *not* deny that Holy Scripture was written under the inspiration of the Holy Spirit?”

2. Whether contrariwise the Judgment implies that it *is* lawful to deny the inspiration of the Holy Scripture in matters “unconnected with religious faith or moral duty?”

3. Or whether, since the Court states that “the doctrine that every part of every book of Holy Scripture was written under the inspiration of the Holy Spirit and is the Word of God,” is *not* involved in the statement of the 6th Article, that “Holy Scripture containeth all things necessary to salvation,” but “it doth so” (i. e. doth “contain all things necessary to salvation”) “from the revelation of the Holy

Spirit," so that the Bible may be well denominated "the Word of God," "God's Word written," or "Holy Writ;" and since the Court further lays down that "these terms cannot be affirmed to be clearly predicated of every statement or representation contained in every part of the Old and New Testament," the Court is to be understood to say (as was affirmed by Dr. Lushington) that the other Articles also, in which the Holy Scripture is called "the Word of God," are to be understood to mean this only, that Holy Scripture is so called only *in so far* as "it contains things necessary to salvation," which things it contains "from the revelation of the Holy Spirit?"

4. Whether, further, it is lawful for any Clerk to say that every part of every Book of Scripture was *not* written under inspiration of the Holy Spirit, and is *not* the Word of God?

5. Whether, since the Church no where lays down expressly and under those precise terms what is "necessary to salvation," (except in the Athanasian Creed, or generally the belief in our Lord Jesus Christ,) it is lawful for any Clergyman to assert that Holy Scripture is the Word of God only in respect to the truths contained in that Creed?

6. Whether, seeing that the same Articles of Faith, whatever they be, which are laid down to be "necessary to salvation," may be

and are severally proved by divers passages of Holy Scripture, it would be lawful for a Clergyman to deny any portion of Scripture which contains any doctrine "necessary to salvation" to be divinely inspired, so that he does not deny altogether that the things "necessary to salvation" do rest upon some authority of Holy Scripture somewhere?

7. Whether, seeing that the greater part of the Old Testament consists of Historical Books, and that these Books do not contain much of what is laid down in the Athanasian Creed as "necessary to salvation," it is lawful to say that the greater part of those Books were not the Word of God, or any part thereof, except so far as they bear upon such doctrines, or, if they do not contain any of them, that such Books were not the Word of God at all?

It may perhaps make the meaning of these questions clearer to give some propositions which are virtually contained in some recent writings.

8. Your opinion then is asked whether, according to the recent Judgment, it would be allowable for a Clergyman of the Church of England to maintain such statements as the following, "In the Books of Scripture, from Genesis to the First Book of Kings, there is little history which is thoroughly reliable." "There was no such historical person as Jonah." "The prophecies said in the Book

of Daniel to have been written by him were not written by him at all, nor are prophecies, but are only history of times subsequent to Daniel, written after the events took place, and alleged untruly to have been written by him as prophecies." "It is a vulgar error that all in the Bible is true." "There is an admixture of legendary matter and embellishment in the Gospels." "The Gospel of St. John embodies less exact tradition of what the Lord said than the other three;" or generally, would it be lawful for a Clergyman to say, "that *our* Lord did not say what the Gospel of St. John says He did say?"

9. Or would it be lawful for any Clergyman to say, (as has been inferred from the Judgment,) "the Bible is not all sound in morals?"

10. Then in regard to the passage of Mr. Wilson's Essay which was before the Court, since Mr. Wilson apparently denies that the Word of God ought to be "applied collectively to the Books of the Old and New Testament," and says that his meaning "may be expressed thus, 'the Word of God is contained in Scripture, whence it does not follow that it is co-extensive with it,' " would his acquittal establish that any Clergyman might say, "Scripture is not to be called the Word of God except in the sense that the Word of God is contained in it?"

In regard to the other charge the Court lays

down, "We think that it is not competent to a Clergyman of the Church of England to teach or suggest *that a hope may be entertained of a state of things contrary to what the Church expressly teaches or declares will be the case.* But the charge is, that Mr. Wilson advisedly declares that after this life there will be no Judgment of God awarding either eternal happiness or eternal misery, an accusation which is not warranted by the passage extracted. Mr. Wilson *expresses a hope* that at the Day of Judgment those men who are not admitted to happiness may be so dealt with as that 'the perverted may be restored, and all, both small and great, may ultimately find a refuge in the bosom of the Universal Parent.' *The hope that the punishment of the wicked may not endure to all eternity* is certainly not at variance with any thing that is found in the Apostles' Creed or the Nicene Creed, or in the Absolution which forms part of the Morning and Evening Prayer, or the Burial Service." (Two passages only were alleged from the Burial Service, from the two last Collects, not that from the prayer at the grave, "deliver us not into the bitter pains of eternal death.") "In the Catechism the child is taught that in repeating the Lord's Prayer he prays unto God that He will keep us from all sin and wickedness, and from our ghostly enemy, *and from everlasting death*, but this exposition of the Lord's Prayer cannot be taken as necessarily declaring any thing touching the eternity of punishment after the resurrection. There remain

the Commination Service and the Athanasian Creed. The material passage in the Commination Service is in these words : ‘ O terrible voice of most just judgments which shall be pronounced upon them when it shall be said unto them, Go ye cursed into the fire everlasting, which is prepared for the devil and his angels.’ In like manner the Athanasian Creed declares that, ‘ they that have done evil shall go into everlasting fire.’ Of the meaning of these words, ‘ everlasting fire,’ *no interpretation is given in the formularies* which are referred to in the charge ; Mr. Wilson has urged in his defence that the word ‘ everlasting ’ in the English translation of the New Testament and of the Creed of St. Athanasius must be subject to the same limited interpretation which some learned men have given to the original words, which are translated by the English word ‘ everlasting,’ and he has also appealed to the liberty of opinion which has always existed without restraint among very eminent English Divines upon this subject.” The Court then observed on the withdrawal of Article 42 of the Articles of King Edward VI., and observed that, “ it might be said that the effect of sustaining the Judgment of the Court below would be to restore the Article so withdrawn.” The Court concluded, “ We are not required or at liberty to express any opinion upon the mysterious question of the eternity of final punishment, further than to say that we do not find in the formularies alleged to which this Article refers, any such distinct declara-

tion of our Church upon the subject as to require us to condemn as penal the expression of a hope by a Clergyman that even the ultimate pardon of the wicked who are condemned in the day of judgment may be consistent with the will of Almighty God."

11. Your opinion is asked, whether, since the Court laid down that it is not competent to any Clergyman to teach or suggest that a hope may be entertained of a state of things contrary to what the Church expressly teaches or declares will be the case, and held also that Mr. Wilson did express a hope that at the day of judgment those men who are not admitted to happiness may be so dealt with that "the perverted may be restored, and all, both small and great, may ultimately find a refuge in the bosom of the Universal Parent," or, which the Court seems to regard as equivalent to this, "the hope that the punishment of the wicked may not endure to all eternity," the acquittal of Mr. Wilson does not in fact involve this, that the Court ruled that the Church of England does *not* "expressly teach or declare the state of things," of the "contrary" of which, Mr. Wilson taught, that a hope might be entertained, viz. the eternity of punishment, and if so, whether it is not competent for any Clergyman to deny *that* which the Church of England has been ruled not to express, teach or declare, and so whether it would not be competent for any

Clergyman to preach that future punishment is *not* eternal?

12. And if *not* eternal, would it not be competent to any Clergyman, without legal penalties, to limit the duration of future punishment to any time which might seem "long," (as we say "an age,") whether 100 years or 100 days, or any other time in which the word "everlasting" would "be subject to the same limited interpretation which some learned men have given to the original word," to whom Mr. Wilson appealed; which appeal the Court apparently recognized as valid in its judgment?

13. Or on the other hand, since among the passages cited from our formularies in the trial of Mr. Wilson, the words in the Burial Service, "deliver us not into the bitter pains of *eternal* death," were *not* alleged, and the judgment of the Court turned on the word "everlasting," and on the formularies which were alleged; would it be competent to any Clergyman to deny that there is any "eternal death," or that the "bitter pains of eternal death" mean "eternity of punishment," on the ground of the recent Judgment?

14. Further, your opinion is asked whether the above principles laid down by the Court for its own decision are legally binding, so that they would not be reversed by the present Court of Appeal in any case which might be

brought before it, and must be recognized by the inferior Courts? and further, whether if the final Court of Appeal should be changed, the late decision, or the principles laid down in it, would be binding on any future Court of Appeal which might be substituted for it?

15. Further, your opinion is asked whether the principle involved in the statement, that no interpretation of the meaning of the words "everlasting fire" is given in the formularies, would form a precedent in any future Judgment? For it seems to imply that words, of which no interpretation is given in the formularies, may be taken vaguely and indefinitely, which would introduce unlimited licence into the legal interpretation of the formularies, since in those formularies all theological terms are taken in their known theological sense, and are, as a matter of course, not defined or interpreted.

OPINION.

WE are of opinion, that the Judgments of the Privy Council, in the recent cases of Dr. Williams and Mr. Wilson, do not, by necessary implication, or otherwise, furnish the means of determining, in the abstract, any of the legal questions raised by the present case.

We understand these Judgments merely as deciding, that, in those particular cases, there was no offence against the law pleaded or proved, unless the exact propositions, stated by the Lord Chancellor, could be deemed to be embodied in the formal and dogmatic teaching of the Church of England, so as to be rigorously binding upon every Clergyman: which they were held not to be. But it would be most unsafe, and, in fact, impossible, to attempt to derive, from these decisions, any rule for the determination of other hypothetical cases, each of which (if it should ever assume a practical form) must depend upon its own circumstances.

This is the only answer which we can give to the questions proposed to us.

ROUNDELL PALMER.

H. M. CAIRNS.

Lincoln's Inn,

June 7th, 1864.

P.S.—We understand the Lord Chancellor to have, in substance, founded his Judgments upon a negative answer to the inquiry, whether every Clergyman of the Church of England was strictly bound to affirm the two following propositions :

“1. That every part of every Book of Holy Scripture was written under the inspiration of the Holy Spirit, and is the Word of God.”

“2. That it is impious or heretical to entertain or express a hope, that even the ultimate pardon of the wicked, who are condemned in the day of Judgment, may be consistent with the will of Almighty God.”

These are the “exact propositions” referred to in our Opinion.

ROUNDELL PALMER.

H. M. CAIRNS.

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